

AMENDED IN SENATE MAY 3, 2011
AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 829

Introduced by Senator DeSaulnier

February 18, 2011

An act to amend Sections 148.5, 148.6, 148.8, 149.5, 6309, 6317, 6600, 6601, 6601.5, 6602, 6603, 6610, 6620, 6621, 6622, 6625, 6627, and 6630 of, and to add Sections 6319.6, 6603.1, 6603.2, and 6603.3 to, the Labor Code, relating to employment safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 829, as amended, DeSaulnier. Division of Occupational Safety and Health: Occupational Safety and Health Appeals Board.

Existing law establishes the Division of Occupational Safety and Health in the Department of Industrial Relations to enforce employment safety laws. Existing law authorizes the division to conduct hearings, inspections, and investigations regarding alleged violations of employment safety laws and to issue citations to employers. Existing law establishes the Occupational Safety and Health Appeals Board in the department and prescribes procedures for the appeals board to hear and decide employer appeals of the division's enforcement actions.

This bill would revise and recast various provisions regarding citations issued by the department, the persons or entities who are authorized to participate as a party in an appeal before the appeals board, and the procedures that govern the appeals board in hearing and deciding appeals. The bill also would make other related clarifying and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 148.5 of the Labor Code is amended to
2 read:

3 148.5. The appeals board, in adjudicating appeals, shall liberally
4 construe the provisions of Division 5 (commencing with Section
5 6300), as well as the standards and orders adopted by the Division
6 of Occupational Safety and Health or the department pursuant to
7 that division, and the standards and orders adopted by the
8 Occupational Safety and Health Standards Board pursuant to
9 Chapter 6 (commencing with Section 140) in order to ensure safe
10 and healthy working conditions for the working men and women
11 of this state. A decision of the appeals board is final, except for
12 any rehearing or judicial review as permitted by Chapter 7
13 (commencing with Section 6600) of Part 1 of Division 5.

14 SEC. 2. Section 148.6 of the Labor Code is amended to read:

15 148.6. A decision of the appeals board is binding on the director
16 and the Division of Occupational Safety and Health with respect
17 to the parties involved in the particular appeal. The director, a
18 party, and any affected person may seek judicial review of an
19 appeals board decision irrespective of whether or not he or she
20 appeared or participated in the appeal to the appeals board or its
21 hearing officer.

22 SEC. 3. Section 148.8 of the Labor Code is amended to read:

23 148.8. The appeals board and its duly authorized representatives
24 in the performance of its duties has the powers of a head of a
25 department as set forth in Article 2 (commencing with Section
26 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the
27 Government Code, except for Section 11185 of the Government
28 Code. In adjudicating appeals, the appeals board is subject to and
29 shall apply the rules and regulations adopted by the department
30 for the purpose of assisting in the enforcement of the provisions
31 of this code regarding occupational safety and health.

32 SEC. 4. Section 149.5 of the Labor Code is amended to read:

33 149.5. (a) The appeals board may award reasonable costs,
34 including attorney's fees, consultant's fees, and witness' fees, not
35 to exceed five thousand dollars (\$5,000) in the aggregate, to any
36 employer who appeals a citation resulting from an inspection or
37 investigation conducted on or after January 1, 1980, issued for a
38 violation of Division 5 (commencing with Section 6300) or of an

1 occupational safety and health standard, rule, order, or regulation
2 adopted pursuant to Chapter 6 (commencing with Section 140) of
3 Division 1 if (1) the employer prevails in the appeal or the citation
4 is withdrawn, and (2) the appeals board finds that the issuance of
5 the citation was the result of arbitrary or capricious action or
6 conduct by the division. The appeals board may award reasonable
7 costs, including attorney's fees, consultant's fees, and witness'
8 fees, not to exceed five thousand dollars (\$5,000) in the aggregate,
9 to the division if (1) it prevails in an appeal filed by the employer
10 or the appeal is withdrawn, and (2) the appeals board finds that
11 the employer acted in bad faith or had no factual basis for filing
12 the appeal.

13 (b) Costs and fees awarded to the division shall be deposited
14 into the division's regular operating budget.

15 (c) The payment of costs and fees by the division pursuant to
16 this section shall be from funds in the division's regular operating
17 budget. The division shall show in its proposed budget for each
18 fiscal year the following information with respect to the prior fiscal
19 year:

20 (1) The total costs paid.

21 (2) The number of cases in which costs were paid.

22 SEC. 5. Section 6309 of the Labor Code is amended to read:

23 6309. (a) If the division learns or has reason to believe that an
24 employment or place of employment is not safe or is injurious to
25 the welfare of an employee, it may, on its own motion, or upon
26 complaint, summarily investigate the same with or without notice
27 or hearings. However, if the division receives a complaint from
28 (1) an employee, (2) an employee's representative, including, but
29 not limited to, an attorney, a family member, a union representative,
30 regardless of whether the representative's union has a collective
31 bargaining agreement with the employer, or a community,
32 employee, or legal organization, (3) a health or safety professional,
33 (4) a government agency representative, or (5) an employer of an
34 employee directly involved in an unsafe place of employment, that
35 his or her employment or place of employment is not safe, it shall,
36 with or without notice or hearing, summarily investigate the
37 complaint as soon as possible, but not later than three working
38 days after receipt of a complaint charging a serious violation, and
39 not later than 14 calendar days after receipt of a complaint charging
40 a nonserious violation. The division shall attempt to determine the

1 period of time in the future that the complainant believes the unsafe
2 condition may continue to exist, and shall allocate inspection
3 resources so as to respond first to those situations in which time
4 is of the essence. For purposes of this section, a complaint is
5 deemed to allege a serious violation if the division determines that
6 the complaint charges that there is a substantial probability that
7 death or serious physical harm could result from a condition which
8 exists, or from one or more practices, means, methods, operations,
9 or processes which have been adopted or are in use in a place of
10 employment. When a complaint charging a serious violation is
11 received from a state or local prosecutor, or a local law enforcement
12 agency, the division shall summarily investigate the employment
13 or place of employment within 24 hours of receipt of the complaint.
14 All other complaints are deemed to allege nonserious violations.
15 The division may enter and serve any necessary order relative
16 thereto. The division is not required to respond to a complaint
17 within this period where, from the facts stated in the complaint, it
18 determines that the complaint is intended to willfully harass an
19 employer or is without any reasonable basis.

20 (b) The division shall keep complete and accurate records of
21 all complaints, whether verbal or written, and shall inform the
22 complainant, whenever his or her identity is known, of any action
23 taken by the division in regard to the subject matter of the
24 complaint, and the reasons for the action, within 14 calendar days
25 of taking any action. The records of the division shall include the
26 dates on which any action was taken on the complaint, or the
27 reasons for not taking any action on the complaint. The division
28 shall, pursuant to authorized regulations, conduct an informal
29 review of any refusal by a representative of the division to issue
30 a citation with respect to an alleged violation. The division shall
31 furnish the employee or the representative of employees requesting
32 the review a written statement of the reasons for the division's
33 final disposition of the case.

34 (c) The name of a person who submits to the division a
35 complaint regarding the unsafe condition of an employment or
36 place of employment shall be kept confidential by the division,
37 unless that person requests otherwise.

38 (d) The division shall annually compile and release on its
39 Internet Web site data pertaining to complaints received and
40 citations issued.

1 (e) The requirements of this section do not relieve the division
2 of its requirement to inspect and ~~assure~~ *ensure* that all places of
3 employment are safe and healthful for employees. The division
4 shall maintain the capability to receive and act upon complaints
5 at all times.

6 SEC. 6. Section 6317 of the Labor Code is amended to read:

7 6317. (a) If, upon inspection or investigation, the division
8 believes that an employer has violated Section 25910 of the Health
9 and Safety Code, Division 5 (commencing with Section 6300) of
10 this code, or any standard, rule, order, or regulation adopted
11 pursuant to Chapter 6 (commencing with Section 140) of Division
12 1 of this code, or any standard, rule, order, or regulation established
13 pursuant to this code, it shall with reasonable promptness issue a
14 citation to the employer. Each citation shall be in writing and shall
15 describe with particularity the nature of the violation, including a
16 reference to the provision of the code, standard, rule, regulation,
17 or order alleged to have been violated. In addition, the citation
18 shall fix a reasonable time for the abatement of the alleged
19 violation. The period specified for abatement shall not commence
20 running until the date the citation or notice is received by certified
21 mail and the certified mail receipt is signed, or if not signed, the
22 date the return is made to the post office. If the division officially
23 and directly delivers the citation or notice to the employer, the
24 period specified for abatement shall commence running on the
25 date of the delivery.

26 (b) A “notice” in lieu of citation may be issued with respect to
27 violations found in an inspection or investigation which meet either
28 of the following requirements:

29 (1) The violations do not have a direct relationship upon the
30 health or safety of an employee.

31 (2) The violations do not have an immediate relationship to the
32 health or safety of an employee, and are of a general or regulatory
33 nature. A notice in lieu of a citation may be issued only if the
34 employer agrees to correct the violations within a reasonable time,
35 as specified by the division, and agrees not to appeal the finding
36 of the division that the violations exist. A notice issued pursuant
37 to this paragraph shall have the same effect as a citation for
38 purposes of establishing repeat violations or a failure to abate.
39 Every notice shall clearly state the abatement period specified by
40 the division, that the notice may not be appealed, and that the notice

1 has the same effect as a citation for purposes of establishing a
2 repeated violation or a failure to abate. The employer shall indicate
3 agreement to the provisions and conditions of the notice by his or
4 her signature on the notice.

5 (c) Under no circumstances shall a notice be issued in lieu of a
6 citation if the violations are serious, repeated, willful, or arise from
7 a failure to abate.

8 (d) The director shall prescribe guidelines for the issuance of
9 these notices.

10 (e) The division may impose a civil penalty against an employer
11 as specified in Chapter 4 (commencing with Section 6423). A
12 notice in lieu of a citation may not be issued if the number of first
13 instance violations found in the inspection (other than serious,
14 willful, or repeated violations) is 10 or more violations.

15 (f) No citation or notice shall be issued by the division for a
16 given violation or violations after six months have elapsed since
17 occurrence of the violation, except that a citation may be amended
18 pursuant to Section 6603.2.

19 (g) The director shall prescribe procedures for the issuance of
20 a citation or notice.

21 (h) The division shall prepare and maintain records capable of
22 supplying an inspector with previous citations and notices issued
23 to an employer.

24 SEC. 7. Section 6319.6 is added to the Labor Code, to read:

25 6319.6. (a) The appeals board shall not stay an abatement
26 measure required by the division as part of an enforcement action
27 pending appeal unless the employer indicates, by verified petition
28 in its notice of appeal to the appeals board, that it seeks a stay of
29 abatement and states the reasons why abatement is not necessary
30 to protect the health or safety of employees. The employer may
31 submit additional evidence, under penalty of perjury,
32 accompanying the verified petition, upon which a decision may
33 be made. Any party may, within 10 calendar days of the employer's
34 notice of appeal, submit declarations or other evidence, under
35 penalty of perjury, as to why abatement should not be stayed. The
36 employer may request a hearing before the appeals board on this
37 issue upon payment of a filing fee of two hundred fifty dollars
38 (\$250).

39 (b) The appeals board may make a determination regarding the
40 request for a stay of abatement based on the employer's verified

1 petition and the evidence submitted under penalty of perjury by
2 the employer and any other party, or may hold a hearing within
3 30 calendar days of receipt of the verified petition. The abatement
4 shall be stayed pending the determination.

5 (c) The appeals board shall issue a written determination within
6 30 calendar days of receipt of the employer's petition for a stay
7 of abatement, or within 10 days of completion of the hearing if a
8 hearing is held, granting or denying the requested stay of abatement
9 with an explanation of the reasons for its decision.

10 (d) The appeals board may grant a stay of abatement pending
11 appeal if it finds either of the following:

12 (1) No employee will be exposed to an unsafe or unhealthy
13 condition.

14 (2) The condition is unlikely to cause death, serious injury or
15 illness, or serious exposure to any worker.

16 (e) Notwithstanding subdivision (c), the appeals board may take
17 an additional 30 days to complete the hearing process if it
18 determines that the complexity of the matter requires the additional
19 time for an adequate resolution and that employee safety will not
20 be jeopardized by the delay.

21 (f) The appeals board may order the employer to implement
22 interim safety or health measures as part of a determination that
23 the matter will be extended for the additional 30 days pursuant to
24 subdivision (e) or should it grant a stay of abatement.

25 SEC. 8. Section 6600 of the Labor Code is amended to read:

26 6600. (a) Any employer served with a citation or notice
27 pursuant to Section 6317, or a notice of proposed penalty under
28 this part, or any other person obligated to the employer as specified
29 in subdivision (b) of Section 6319, may appeal to the appeals board
30 within 15 working days from the receipt of the citation or the notice
31 with respect to violations alleged by the division, abatement
32 periods, amount of proposed penalties, and the reasonableness of
33 the changes required by the division to abate the condition.

34 (b) Whenever a citation has been issued or a notice served
35 pursuant to Section 6308 or 6317, the appeals board shall permit
36 any of the following, within 15 working days of actual notice of
37 the citation or notice, to participate in an appeal and to contest the
38 reasonableness of the period of time fixed in the citation or order
39 for the abatement of the violation, the sufficiency of the changes

1 required to abate the condition, ~~and~~ or the characterization of the
2 violation:

3 (1) An employee or his or her representative, as described in
4 Section 6309.

5 (2) A union that has a collective bargaining agreement with any
6 employer that covers the cited employer's place of employment.

7 (3) A deceased worker's successor in interest, heir, beneficiary,
8 or other representative.

9 (c) The appeals board may allow any other person or entity to
10 participate as a party in an appeal in the interests of justice.

11 (d) The division is a party to all proceedings before the appeals
12 board, whether or not the division has appeared or participated in
13 a given proceeding.

14 SEC. 9. Section 6601 of the Labor Code is amended to read:

15 6601. If, within 15 working days from receipt of the citation
16 or notice of civil penalty issued by the division, the employer fails
17 to notify the appeals board that it intends to contest the citation or
18 notice of proposed penalty, and no notice contesting the abatement
19 period, the sufficiency of the changes required to abate the
20 condition, or the characterization of any violation is filed by any
21 party described in subdivision (b) of Section 6600 within that time,
22 the citation or notice of proposed penalty shall be deemed a final
23 order of the appeals board and not subject to review by any court
24 or agency. The 15-day period may be extended by the appeals
25 board for good cause.

26 SEC. 10. Section 6601.5 of the Labor Code is amended to read:

27 6601.5. If, within 15 working days from receipt of a special
28 order, or action order by the division, the employer fails to notify
29 the appeals board that he or she intends to contest the order, and
30 no notice contesting the abatement period, the sufficiency of the
31 changes required to abate the condition, or the characterization of
32 any violation is filed by any party described in subdivision (b) of
33 Section 6600 within that time, the order shall be deemed a final
34 order of the appeals board and not subject to review by any court
35 or agency. The 15-day period may be extended by the appeals
36 board for good cause.

37 SEC. 11. Section 6602 of the Labor Code is amended to read:

38 6602. If an employer notifies the appeals board that he or she
39 intends to contest a citation issued under Section 6317, or notice
40 of proposed penalty issued under Section 6319, or order issued

1 under Section 6308, or if, within 15 working days of the issuance
2 of a citation or order, any employee or representative of an
3 employee files a notice with the division or appeals board alleging
4 that the period of time fixed in the citation or order for the
5 abatement of the violation is unreasonable, that the changes
6 required to abate the condition are insufficient, or that the
7 characterization of any violation is improper, the appeals board
8 shall afford an opportunity for a hearing. The appeals board shall
9 thereafter issue a decision, based on findings of fact, affirming,
10 modifying, or vacating the division's citation or order, and may
11 modify the proposed penalty, if the penalty modification is not in
12 conflict with any other section of this code or regulation of the
13 department, or direct other appropriate relief.

14 SEC. 12. Section 6603 of the Labor Code is amended to read:

15 6603. (a) The rules of practice and procedure adopted by the
16 appeals board shall do all of the following:

17 (1) Be consistent with Article 8 (commencing with Section
18 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, and
19 Sections 11507, 11507.6, 11507.7, 11513, 11514, 11515, and
20 11516 of, the Government Code, and shall provide affected
21 employees or representatives of affected employees an opportunity
22 to participate as parties to a hearing under Section 6602.

23 (2) Ensure that all parties participate fully in any hearing, receive
24 notices, be permitted to subpoena witnesses and documents at any
25 time before the completion of the hearing, offer evidence, examine
26 and cross-examine witnesses, and argue and submit briefs. Parties
27 shall also have the right to participate fully in the settlement of a
28 matter at the prehearing conference, hearing, or in any other
29 proceedings where settlement may be reached. A party described
30 in subdivision (b) of Section 6600 may object, within 15 working
31 days of notice of the settlement agreement between the employer
32 and the division, to provisions regarding the characterization of a
33 violation, the amount of time in which abatement is to be
34 accomplished, or the nature and sufficiency of abatement in a
35 settlement agreement, if any of those are at issue in the appeal.

36 (3) Provide for the scheduling of hearings in a manner designed
37 to minimize inconvenience to the division and all parties and
38 witnesses who are required to attend the hearings, and to be
39 completed without significant lapses in time should the hearing
40 not be completed within the time originally scheduled. The appeals

1 board shall set initial hearing dates, subject to change upon
2 agreement of the parties within 30 days of the notice of the initial
3 hearing date, and shall not grant subsequent continuances absent
4 good cause.

5 (4) Establish a settlement program designed to bring the parties
6 to an agreement at the earliest possible stage of the appeal.

7 (b) The superior courts shall have jurisdiction over contempt
8 proceedings, as provided in Article 12 (commencing with Section
9 11455.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the
10 Government Code.

11 SEC. 13. Section 6603.1 is added to the Labor Code, to read:

12 6603.1. (a) The Legislature finds and declares that it is the
13 duty of the appeals board to further the purposes of this division,
14 which include ensuring safe and healthful working conditions for
15 all working men and women in the state. The appeals board and
16 its administrative law judges shall, in the conduct of hearings,
17 gather evidence through oral testimony and records that is best
18 calculated to ascertain the substantial rights of the parties and carry
19 out justly the letter and spirit of this division, make a complete
20 inquiry into the facts as to whether the employer committed the
21 violation or violations alleged in the citation, and ensure that a full
22 hearing record is obtained.

23 (b) It is the intent of the Legislature that hearings held pursuant
24 to this ~~chapter~~ *division* be conducted in an informal setting that
25 preserves the rights of the parties. In conducting hearings, the
26 appeals board shall permit hearsay and opinion evidence, according
27 to the weight that is appropriate under the circumstances, call and
28 examine a party or any witness, and, ~~on its own motion, on~~
29 *its own motion* may admit any relevant and material evidence.

30 SEC. 14. Section 6603.2 is added to the Labor Code, to read:

31 6603.2. (a) The appeals board shall, at any time before an
32 appeal is submitted for decision, regardless of whether the statute
33 of limitations has run, allow the division to add or delete a citation
34 or amend a citation or order by adding or striking out the name of
35 any party, correcting a mistake in the name of a party, or correcting
36 a clerical error or mistake in any other respect. The appeals board
37 may allow the employer to amend, according to proof presented
38 by the employer, the basis of its appeal. Leave to amend shall be
39 liberally granted if the factual circumstances serving as the basis
40 for the amendments have been litigated by the parties.

1 (b) Each party shall be given notice of the intended amendment
2 and an opportunity to object on the basis of prejudice. If prejudice
3 is shown, the amendment shall not be granted. However, if the
4 prejudice can be remedied by a continuance of the hearing, a
5 continuance for further proceedings shall be granted in lieu of
6 denying the amendment.

7 SEC. 15. Section 6603.3 is added to the Labor Code, to read:

8 6603.3. Whenever a case is within the jurisdiction of the Bureau
9 of Investigations pursuant to Section 6315, the appeals board shall
10 continue any hearing upon the written request of the division,
11 employer, or any prosecuting attorney with jurisdiction over a
12 criminal case involving the citation for which an appeal has been
13 filed pursuant to Section 6602. In lieu of a continuance, the appeals
14 board may dismiss the employer's appeal with leave to refile within
15 15 calendar days of the completion of the criminal case.
16 Completion of the criminal case shall be deemed to occur on the
17 date of a verdict of not guilty or the date of sentencing after a
18 verdict or plea of guilty or no contest.

19 SEC. 16. Section 6610 of the Labor Code is amended to read:

20 6610. (a) Any notice, order, or decision required by this part
21 to be served upon any person either before, during, or after the
22 institution of any proceeding before the appeals board, shall be
23 served in the manner provided by Chapter 5 (commencing with
24 Section 1010) of Title 14 of Part 2 of the Code of Civil Procedure,
25 unless otherwise directed by the appeals board. In the latter event,
26 the document shall be served in accordance with the order or
27 direction of the appeals board. The appeals board may, in the
28 circumstances addressed in the Code of Civil Procedure, order
29 service to be made by publication of notice of time and place of
30 hearing. Where service is ordered to be made by publication, the
31 date of the hearing shall be fixed more than 30 days from the date
32 the application was filed.

33 (b) The employer shall give notice of any appeal filed pursuant
34 to Section 6602 to its employees by posting the docketed appeal
35 form, participation notice, and notice of hearing at or near the site
36 of the alleged violation, or, if that is not practicable, at a
37 conspicuous place where it will be readily observable by employees
38 or at a location where employees report each day. The employer
39 shall provide notice to each union, if any, with which it has a
40 collective bargaining agreement. If the employer is cited as a

1 controlling employer pursuant to paragraph (3) of subdivision (b)
2 of Section 6400, it shall provide notice to the employers at the
3 place of employment on the dates of any alleged violations. If an
4 employee was injured, made ill, or killed as a result of the alleged
5 violation that is being appealed, the employer shall also provide
6 notice to the employee or, if the employee is deceased, the
7 employee's family.

8 SEC. 17. Section 6620 of the Labor Code is amended to read:

9 6620. Upon the filing of a petition for reconsideration, or
10 having granted reconsideration upon its own motion, the appeals
11 board may, with or without further proceedings and with or without
12 notice, affirm, rescind, alter, or amend the order or decision made
13 and filed by the appeals board or hearing officer on the basis of
14 the evidence previously submitted in the case, and shall issue an
15 opinion or order within 90 days of the filing of the petition for
16 reconsideration. If the appeals board grants reconsideration and
17 directs the taking of additional evidence, it shall set a hearing for
18 the taking of additional evidence within 60 days of the filing of
19 the petition for reconsideration. Notice of the time and place of
20 any hearing on reconsideration shall be given to the petitioner and
21 adverse parties and to any other persons as the appeals board
22 orders.

23 SEC. 18. *Section 6621 of the Labor Code is amended to read:*

24 6621. If at the time of granting reconsideration, it appears to
25 the satisfaction of the appeals board that no sufficient reason exists
26 for taking further testimony, the appeals board may affirm, rescind,
27 alter or amend the order or decision made and filed by the appeals
28 board or hearing officer and may, without further proceedings,
29 without notice, and without setting a time and place for further
30 hearing, enter its findings, order or decision based upon the record
31 in the case. *The appeals board shall issue an opinion or order*
32 *within 90 days of the filing of the petition for reconsideration.*

33 ~~SEC. 18.~~

34 SEC. 19. Section 6622 of the Labor Code is amended to read:

35 6622. After the taking of additional evidence and a
36 consideration of all of the facts the appeals board may affirm,
37 rescind, alter, or amend the original order or decision. An order
38 or decision made following reconsideration which affirms, rescinds,
39 alters, or amends the original order or decision shall be made by
40 the appeals board but shall not affect any right or the enforcement

1 of any right arising from or by virtue of the original order or
2 decision unless so ordered by the appeals board. The appeals board
3 shall issue an opinion or order within 90 days after the hearing at
4 which additional evidence is received.

5 ~~SEC. 19.~~

6 *SEC. 20.* Section 6625 of the Labor Code is amended to read:

7 6625. The filing of a petition for reconsideration shall suspend
8 for a period of 10 days the order or decision affected, insofar as it
9 applies to the parties to the petition, unless otherwise ordered by
10 the appeals board. The appeals board upon the terms and conditions
11 that it by order directs, may stay, suspend, or postpone the order
12 or decision during the pendency of the reconsideration, except as
13 to requirements for abatement set forth in Section 6319.6.

14 ~~SEC. 20.~~

15 *SEC. 21.* Section 6627 of the Labor Code is amended to read:

16 6627. Any person affected by an order or decision of the
17 appeals board may, within the time limit specified in this section,
18 apply to the superior court of the county in which he or she resides,
19 in which the employer is located, or in which the appeals board is
20 located, for a writ of mandate, for the purpose of inquiring into
21 and determining the lawfulness of the original order or decision
22 or of the order or decision following reconsideration. For purposes
23 of this section, “any person affected” includes the division, the
24 employer, a party, an intervenor, and any person seeking to enforce
25 the public’s right to safe and healthful working conditions on behalf
26 of employees within the state, regardless of whether that person
27 has a beneficial interest in the order or decision at issue. The
28 application for writ of mandate must be made within 30 days after
29 a petition for reconsideration is denied, or, if a petition is granted
30 or reconsideration is had on the appeals board’s own motion, within
31 30 days after the filing of the order or decision following
32 reconsideration.

33 ~~SEC. 21.~~

34 *SEC. 22.* Section 6630 of the Labor Code is amended to read:

35 6630. The findings and conclusions of the appeals board on
36 questions of fact are conclusive and final and are not subject to
37 review. Such questions of fact shall include ultimate facts and the
38 findings and conclusions of the appeals board. The appeals board
39 and each party to the action or proceeding before the appeals board,
40 and any person affected as defined in Section 6627, shall have the

1 right to appear in the mandate proceeding. Upon the hearing, the
2 court shall enter judgment either affirming or annulling the order
3 or decision, or the court may remand the case for further
4 proceedings before the appeals board.

O